

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

JON SANDS TYRELL, M.D.

File No. 800-2014-010673

**Physician's and Surgeon's
Certificate No. G 64687**

Respondent

DECISION AND ORDER


The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on May 2, 2019.

IT IS SO ORDERED April 2, 2019.

MEDICAL BOARD OF CALIFORNIA

By: _____



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 California Department of Justice
State Bar No. 169127
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6448
Facsimile: (213) 897-9395
7 E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

14 JON SANDS TYRELL, M.D.

15 612 West Duarte Road, Suite 602
16 Arcadia, CA 91007

17 Physician's and Surgeon's Certificate No. G
18 64687,

19 Respondent.

Case No. 800-2014-010673

OAH No. 2018070999

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Peggie Bradford
27 Tarwater, Deputy Attorney General.

28 //

2. Respondent Jon Sands Tyrell, M.D. (Respondent) is represented in this proceeding by attorney Kent Thomas Brandmeyer, whose address is 2 North Lake Avenue, Suite 820, Pasadena, California 91101.

3. On or about November 28, 1998, the Board issued Physician's and Surgeon's Certificate No. G 64687 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-010673, and will expire on October 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-010673 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 14, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-010673 is attached as Exhibit A and is incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2014-010673. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

11

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2014-010673, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
11 Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED Physician and Surgeon's Certificate No. G 64687, issued to Respondent Jon Sands Tyrell, M.D., is publicly reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a), subparagraph (4). This Public Reprimand, which is issued in connection with Accusation No. 800-2014-010673, is as follows:

"On November 14, 2011, you failed to provide proper care and treatment to Patient W.H. in accordance with the standard of practice in the medical community. You performed a laparoscopic appendectomy during which you failed to remove the entire appendix. You failed to attempt to contact Patient W.H. to discuss a pathology report that indicated no definite appendix tissue had been identified in the tissue provided for analysis."

B. EDUCATION COURSE

Within 60 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 16 hours in the area of patient communications. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of the course or courses, Respondent shall provide proof of attendance. Respondent shall participate in and successfully complete the 16 hours of course-work not later than six months after Respondent's initial enrollment.

Respondent's failure to enroll, participate in, or successfully complete the 16 hours of course-work in patient communications within the designated time period, unless the Board or its designee agrees in writing to an extension of that time, shall constitute general unprofessional conduct and may serve as the grounds for further disciplinary action.

//

//

//

Exhibit A

Accusation No. 800-2014-010673

1 XAVIER BECERRA
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 MARGARET J. PHE
Deputy Attorney General
4 State Bar No. 207205
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6443
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 14, 2014
BY: Jody Wright ANALYST

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-010673

12 JON SANDS TYRELL, M.D.

A C C U S A T I O N

13 612 West Duarte Road, Suite 602
14 Arcadia, CA 91007

15 Physician's and Surgeon's Certificate
No. G 64687,

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California (Board).

22 2. On or about November 28, 1988, the Medical Board issued Physician's and Surgeon's
23 Certificate Number G 64687 to Jon Sands Tyrell, M.D. (Respondent). That Physician's and
24 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein
25 and will expire on October 31, 2018, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 “(f) Any action or conduct which would have warranted the denial of a certificate.

2 “(g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of
5 the proposed registration program described in Section 2052.5.”

6 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder
8 who is the subject of an investigation by the board.”

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Gross Negligence)**

11 6. Respondent is subject to disciplinary action under section 2234, subdivision (b), of
12 the Code in that Respondent was grossly negligent in the care and treatment of patient W.H. The
13 circumstances are as follows:

14 7. On or about November 14, 2011, patient W.H., a then 56-year-old obese male,
15 presented to the Arcadia Methodist Hospital (“AMH”) emergency room with a 24-hour history of
16 abdominal pain associated with nausea and anorexia that had started in the epigastrium¹ but then
17 localized in the right lower quadrant of the abdomen. Following admission, the emergency doctor
18 evaluated W.H., ordered lab work and a CT² scan of W.H.’s abdomen and pelvis, and requested
19 consultations from other physicians, including Respondent. W.H. had a history of significant
20 heart disease and was status post an aortic valve replacement.³

21 ¹ The epigastrium (or epigastric region) is the upper central region of the abdomen. It is
22 located between the costal margins and the subcostal plane.

23 ² A computerized tomography (CT) scan combines a series of X-ray images taken from
24 different angles and uses computer processing to create cross-sectional images, or slices, of the
bones, blood vessels and soft tissues inside your body. CT scan images provide more detailed
information than plain X-rays do.

25 ³ W.H. was taking Coumadin (generic name warfarin), which is a medication used to treat
26 blood clots (such as in deep vein thrombosis-DVT or pulmonary embolus-PE) and/or to prevent
27 new clots from forming in the body. Prevention of harmful blood clots help to reduce the risk of a
stroke or heart attack. Conditions that increase the risk of developing blood clots include a certain
28 type of irregular heart rhythm (atrial fibrillation), heart valve replacement, recent heart attack, and
certain surgeries (such as hip/knee replacement). Warfarin is commonly called a “blood thinner,”

(continued...)

8. W.H.'s lab work demonstrated an elevated white blood cell count (WBC)⁴ of 14,900 and an international normalized ratio (INR) of 3.3.⁵ The CT scan revealed findings consistent with a probable contained ruptured acute appendicitis⁶ with a 1.9 centimeter abscess⁷ at the tip of the appendix. There was also an inflammatory process around the cecum⁸ and terminal ileum.⁹

9. Upon completing a history and physical and evaluating all the lab work and imaging performed on W.H., Respondent diagnosed W.H. with acute contained (1.9 cm abscess) ruptured appendicitis. Due to W.H.'s significant heart disease, Respondent requested a cardiac

(...continued)

but the more correct term is "anticoagulant." It helps to keep blood flowing smoothly in the body by decreasing the amount of clotting proteins in the blood.

⁴ White blood cells (WBCs), also called leukocytes or leucocytes, are the cells of the immune system that are involved in protecting the body against both infectious disease and foreign invaders. All white blood cells are produced and derived from multipotent cells in the bone marrow known as hematopoietic stem cells. Leukocytes are found throughout the body, including the blood and lymphatic system. The number of leukocytes in the blood is often an indicator of disease, and thus the WBC count is an important subset of the complete blood count. The normal white cell count is usually between $4 \times 10^9/L$ and $11 \times 10^9/L$. In the US this is usually expressed as 4,000 to 11,000 white blood cells per microliter of blood. WBC make up approximately 1% of the total blood volume in a healthy adult, making them substantially less numerous than the red blood cells at 40% to 45%. However, this 1% of the blood makes a large difference to health, because immunity depends on it. An increase in the number of leukocytes over the upper limits is called leukocytosis. It is normal when it is part of healthy immune responses, which happen frequently.

⁵ The INR provides some information about a person's blood's tendency to clot (which is often described as how thin or thick their blood is). The INR comes from the conversion of another value, the prothrombin time (PT). Prothrombin time is the time it takes for blood to clot in a test tube. A high or low PT can suggest bleeding or clotting tendencies. Most often, the PT is checked to monitor a person's response to blood thinners such as warfarin (Coumadin).

⁶ Acute appendicitis is inflammation of the appendix, the narrow, finger-shaped organ that branches off the first part of the large intestine on the right side of the abdomen. Although the appendix is a vestigial organ with no known function, it can become diseased. Acute appendicitis is the most common reason for abdominal surgery in the world. If it is not treated promptly, there is the chance that the inflamed appendix will burst, spilling fecal material into the abdominal cavity. The usual result is a potentially life-threatening infection (peritonitis), but the infection may become sealed off and form an abscess.

⁷ An abscess is swollen area within body tissue, containing an accumulation of pus.

⁸ The cecum is a pouch connected to the junction of the small and large intestines.

⁹ The terminal ileum is part of the digestive system. It is the most distant portion of the small intestine, it aids in digestion by absorbing materials not previously digested by the jejunum, the middle portion of the small intestine.

1 preoperative clearance and rapid reversal of W.H.'s INR of 3.3 with fresh frozen plasma
2 transfusion prior to him being taken to the operating room.

3 10. After Respondent discussed the surgical options of laparoscopic versus open
4 appendectomy¹⁰ and the common risks and benefits of the procedures with W.H. and his wife,
5 W.H. signed a consent form for Respondent to proceed with the recommended option of a
6 laparoscopic appendectomy. However, Respondent failed to mention the non-surgical option of
7 bowel rest, IV hydration and appropriate IV antibiotics with consultation to Interventional
8 Radiology (IR) for possible drainage of the abscess, which has the advantage of being better
9 tolerated in patients with significant co-morbidities and higher than normal perioperative surgical
10 risks.

11 11. According to the operative report, Respondent identified the appendix and its
12 mesentery,¹¹ mobilized it, stapled it off at its base, and sent it to pathology. But he did not
13 describe in detail how the appendiceal cecal junction was identified or if it was identified at all.
14 The specimen was then sent to pathology for further histologic evaluation.

15 12. The first of two pathology reports became available on November 15, 2011, and the
16 second supplemental report became available on November 17, 2011. Both reports examined all
17 the tissue that was sent from Respondent's procedure performed on November 14, 2011. The
18 pathologist's final determination was that there was no appendiceal (no colonic mucosa) present
19 in the specimen.

20 13. According to the November 17, 2011 supplemental report, the pathologist discussed
21 the findings of the lack of any appendiceal tissue¹² in the pathology specimen with Respondent.

22 ¹⁰ Appendectomy may be performed laparoscopically (in minimally invasive surgery) or as
23 an open operation. Laparoscopy is often used if the diagnosis is in doubt, or if it is desirable to
24 hide the scars in the umbilicus or in the pubic hair line. Recovery may be a little quicker with
25 laparoscopic surgery; the procedure is more expensive and resource-intensive than open surgery
and generally takes a little longer, with the (low in most patients) additional risks associated with
pneumoperitoneum (inflating the abdomen with gas).

26 ¹¹ The mesentery is a fold of the peritoneum that attaches the stomach, small intestine,
pancreas, spleen, and other organs to the posterior wall of the abdomen.

27 ¹² A colonic tissue culture is a laboratory test to check for disease-causing bacteria, fungi,
28 or viruses in a sample of tissue from the large intestine.

1 However, Respondent neither read nor discussed the reports with W.H. even though Respondent
2 saw W.H. daily for four more days until his discharge on November 21, 2011.

3 14. Respondent was obligated to explain and discuss with W.H. the medical and surgical
4 ramifications of having the appendix not identified in the pathology report, or the possibility of
5 him having a stump appendix left behind during his hospitalization or in a timely manner within
6 one to two weeks postoperatively. Respondent's discussion should have included possible
7 acceptable treatment options, including their risks and benefits, in dealing with a probable
8 retained or stump appendix. Additionally, Respondent should have discussed with W.H. the
9 option to do nothing except observation on an outpatient basis, and he should have also informed
10 W.H. that he had a higher than normal risk of developing a recurrent stump appendicitis.¹³
11 Moreover, Respondent should have discussed with W.H. the second option of obtaining
12 additional imaging studies to try to visualize a retained/stump appendix and then consider an
13 elective interval laparoscopic or open appendectomy six to eight weeks after W.H. had resolved
14 the initial appendicitis episode, which would have removed the risk of any future episodes of
15 acute appendicitis.

16 15. On or about November 21, 2011, W.H. was discharged from the hospital on oral
17 antibiotics. W.H. was instructed to follow up with his primary care physician, Dr. A., for post-
18 operative care within one week.

19 16. On or about November 28, 2011, W.H. presented to Dr. A.'s office for a
20 postoperative visit. There is no indication in the medical records that W.H. ever followed up with
21 Respondent as an outpatient and whether W.H. ever had his laparoscopic interval appendectomy
22 performed.

23 17. Despite the disparity as to what W.H. was told was removed during his laparoscopic
24 appendectomy on November 14, 2011, and what was actually removed, Respondent never
25 followed up with the W.H. postoperatively to discuss the possible medical and surgical treatment
26

27 ¹³ Stump appendicitis is defined as the interval repeated inflammation of remaining
28 residual appendiceal tissue after an appendectomy.

1 options.

2 18. On or about September 19, 2012, W.H. presented to the AMH emergency room with
3 similar symptoms as his initial presentation on November 14, 2011, with right lower quadrant
4 abdominal pain for 48 hours associated with nausea and some anorexia but without vomiting or
5 fevers. In the emergency room, the patient was afebrile with a normal WBC of 8,400 and a CT
6 scan that showed a long appendiceal stump with air in it and surrounding inflammatory changes.
7 No abscess or free air was mentioned. W.H. was seen by the surgeon on call, who felt that he
8 could be managed non-operatively within hospital IV antibiotics. W.H. was discharged two days
9 later on oral antibiotics after significant improvement of his abdominal pain. He was given a
10 follow up appointment to see his primary physician in one week.

11 19. On or about August 30, 2013, W.H. again presented to the AMH emergency room
12 with symptoms similar to his visit on September 19, 2012, with a two-day history of right lower
13 quadrant abdominal pain associated with nausea and anorexia. In the emergency room, W.H. was
14 found to have a normal WBC (7,900) and vitals, but a CT scan of the abdomen and pelvis
15 revealed a long appendiceal stump (3-4 cm) with surrounding inflammation extending to the
16 terminal ileum. W.H. was seen by the surgeon on call, who determined that W.H. could again be
17 treated nonsurgically in the hospital with IV antibiotics and then have a laparoscopic interval
18 appendectomy in 6-8 weeks if he improved. Following two days of IV antibiotics, W.H. was
19 discharged on oral antibiotics and was given a one week follow up appointment with his primary
20 physician.

21 20. On or about November 17, 2011, and thereafter, Respondent was grossly negligent
22 when he failed to discuss the pathology reports with W.H. while he was in the hospital or after his
23 discharge, and when he failed to contact W.H. to discuss possible medical and surgical treatment
24 options due to the possibility of a retained or stump appendix.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Repeated Negligent Acts)**

27 21. Respondent is subject to disciplinary action under section 2234, subdivision (c), of the
28 Code in that Respondent engaged in repeated negligent acts in the care and treatment of patient

1 W.H. The circumstances are as follows:

2 22. The allegations of the First Cause for Discipline are incorporated herein by reference
3 as if fully set forth.

4 23. On or about November 14, 2011, and thereafter, Respondent was negligent in his care
5 and treatment of W.H., including without limitation, when he failed to give W.H. adequate
6 informed consent and discuss with W.H. all acceptable treatment options in managing a contained
7 ruptured acute appendicitis with abscess formation.

8 24. On or about November 14, 2011, and thereafter, Respondent was negligent in his care
9 and treatment of W.H., including without limitation, when he performed an inadequate
10 laparoscopic appendectomy by incorrectly identifying inflammatory tissue that contained no
11 colonic tissue (proven by pathology) as being the inflamed appendix during a laparoscopic
12 appendectomy on W.H., and failing to inspect the tissue after it was removed to confirm it was the
13 appendix that he had removed.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Medical Board of California issue a decision:

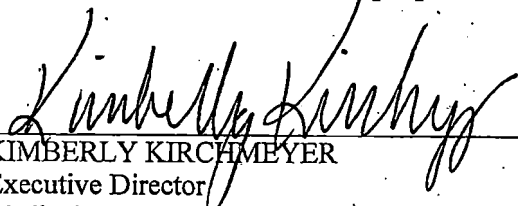
17 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 64687,
18 issued to Jon Sands Tyrell, M.D.;

19 2. Revoking, suspending or denying approval of Jon Sands Tyrell, M.D.'s authority to
20 supervise physician assistants and advanced practice nurses;

21 3. Ordering Jon Sands Tyrell, M.D., if placed on probation, to pay the Board the costs of
22 probation monitoring; and

23 4. Taking such other and further action as deemed necessary and proper.

24
25 DATED: December 14, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
State of California
Complainant

LA2017605054
62567703.doc

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28